

AMENDED IN SENATE APRIL 30, 2013

AMENDED IN SENATE APRIL 25, 2013

AMENDED IN SENATE APRIL 8, 2013

SENATE BILL

No. 160

**Introduced by Senators Lara and De León
(Coauthor: Senator Correa)**

February 1, 2013

An act to amend Section 44010 of, and to add Section 45304.5 to, the Education Code, relating to classified school employees.

LEGISLATIVE COUNSEL'S DIGEST

SB 160, as amended, Lara. Classified school employees: misconduct against a child: statewide tracking.

Existing law requires the governing board of a school district to place a classified employee on a compulsory leave of absence in specified circumstances, including, among other circumstances, if the employee is charged by complaint, information, or indictment filed in a court of competent jurisdiction with the commission of a sex offense, as defined.

This bill would require a school district or charter school to notify the State Department of Education when a classified employee of the school district or charter school is dismissed, ~~resigns~~, is suspended, ~~retires~~, or is terminated from employment as a result of misconduct against a child, as specified, *and to notify, in writing, the classified employee who is the subject of the notification, as specified*, thereby imposing a state-mandated local program. The bill would require the department, upon request by a school district or charter school, to provide that information only for purposes of verifying previous employment of a classified employee, as specified. The bill would

require the information to be kept confidential and would require the department to remove from its records a classified employee's information who is subsequently acquitted or found to be wrongfully accused of that information if a person submits a certified copy of a court order of an acquittal or statement of factual innocence pertaining to the alleged misconduct against a child. The bill would make a conforming change and nonsubstantive changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 44010 of the Education Code is amended
- 2 to read:
- 3 44010. "Sex offense," as used in Sections 44020, 44237, 44346,
- 4 44425, 44436, 44836, 45123, and 45304.5, means any of the
- 5 offenses listed below:
- 6 (a) An offense defined in Section 220, 261, 261.5, 262, 264.1,
- 7 266, 266j, 267, 285, 286, 288, 288a, 288.5, 289, 311.1, 311.2,
- 8 311.3, 311.4, 311.10, 311.11, 313.1, 647b, 647.6, or former Section
- 9 647a, subdivision (a), (b), (c), or (d) of Section 243.4, or
- 10 subdivision (a) or (d) of Section 647 of the Penal Code.
- 11 (b) An offense defined in former subdivision (5) of former
- 12 Section 647 of the Penal Code repealed by Chapter 560 of the
- 13 Statutes of 1961, or an offense defined in former subdivision (2)
- 14 of former Section 311 of the Penal Code repealed by Chapter 2147
- 15 of the Statutes of 1961, if the offense defined in those sections was
- 16 committed before September 15, 1961, to the same extent that an
- 17 offense committed before that date was a sex offense for the
- 18 purposes of this section before September 15, 1961.
- 19 (c) An offense defined in Section 314 of the Penal Code
- 20 committed on or after September 15, 1961.

1 (d) An offense defined in former subdivision (1) of former
2 Section 311 of the Penal Code repealed by Chapter 2147 of the
3 Statutes of 1961 committed on or after September 7, 1955, and
4 before September 15, 1961.

5 (e) An offense involving lewd and lascivious conduct under
6 Section 272 of the Penal Code committed on or after September
7 15, 1961.

8 (f) An offense involving lewd and lascivious conduct under
9 former Section 702 of the Welfare and Institutions Code repealed
10 by Chapter 1616 of the Statutes of 1961, if that offense was
11 committed before September 15, 1961, to the same extent that an
12 offense committed before that date was a sex offense for the
13 purposes of this section before September 15, 1961.

14 (g) An offense defined in Section 286 or 288a of the Penal Code
15 before the effective date of the amendment of either section enacted
16 at the 1975–76 Regular Session of the Legislature committed
17 before the effective date of the amendment.

18 (h) An attempt to commit any of the offenses specified in this
19 section.

20 (i) An offense committed or attempted in another state or against
21 the laws of the United States that, if committed or attempted in
22 this state, would have been punishable as one or more of the
23 offenses specified in this section.

24 (j) A conviction for an offense resulting in the requirement to
25 register as a sex offender pursuant to Section 290 of the Penal
26 Code.

27 (k) Commitment as a mentally disordered sex offender under
28 former Article 1 (commencing with Section 6300) of Chapter 2
29 of Part 2 of the Welfare and Institutions Code, as repealed by
30 Chapter 928 of the Statutes of 1981.

31 SEC. 2. Section 45304.5 is added to the Education Code, to
32 read:

33 45304.5. (a) A school district or charter school, within 30 days
34 of one of the following *final* actions, shall notify the department
35 when a classified employee of the school district or charter school
36 is dismissed, ~~resigns~~, is suspended, ~~retires~~, or is terminated from
37 employment as a result of misconduct against a ~~child~~ *child*. *The*
38 *school district or charter school shall inform, in writing, a*
39 *classified employee who is the subject of a notification pursuant*
40 *to this section within 15 days of the notification. The notification*

1 *required by this section shall be in a format prescribed by the*
2 *department.*

3 (b) (1) The department shall keep the information provided
4 pursuant to subdivision (a) and, upon request by a school district
5 or charter school, provide that information only for purposes of
6 verifying previous employment for a classified employee being
7 considered for employment by the requesting school district or
8 charter school. The department shall remove from its records a
9 ~~classified employee's information who is subsequently acquitted~~
10 ~~or found to be wrongfully accused of any information kept pursuant~~
11 ~~to this section if a person submits a certified copy of a court order~~
12 ~~of an acquittal or statement of factual innocence pertaining to the~~
13 ~~alleged misconduct against a child that led to his or her dismissal,~~
14 ~~resignation, suspension, retirement, or termination of employment.~~

15 (2) Information collected and requested pursuant to this section
16 shall be kept confidential and shall not be made available to the
17 public. The department shall ensure that information collected
18 pursuant to this section shall only be used for the purposes
19 described in this subdivision.

20 (c) For purposes of this section, "misconduct against a child"
21 means any of the following:

22 (1) A sex offense, as specified in Section 44010.

23 (2) Aiding or abetting the unlawful sale to, use by, or exchange
24 to, minors of a controlled substance included in Schedule I, II, or
25 III, as listed in Section 11054, 11055, or 11056 of the Health and
26 Safety Code, respectively.

27 (3) An offense specified in Sections 11165.2 to 11165.6,
28 inclusive, of the Penal Code.

29 SEC. 3. If the Commission on State Mandates determines that
30 this act contains costs mandated by the state, reimbursement to
31 local agencies and school districts for those costs shall be made
32 pursuant to Part 7 (commencing with Section 17500) of Division
33 4 of Title 2 of the Government Code.